

Virginia Regulatory Town Hall

Final Regulation Agency Background Document

Agency Name:	Department of Labor and Industry/Safety and Health Codes Board
VAC Chapter Number:	130
Regulation Title:	Federal Identical Longshoring Standards
Action Title:	Stay of compliance date for the new Powered Industrial Truck Operator Training from December 1, 1999 to March 1, 2000.
Date:	01/20/2000

Summary

The Federal Occupational Safety and Health Administration (OSHA) stayed the compliance date for the new Powered Industrial Truck Operator Training Standard as it applies to employers in Part 1917 (Marine Terminal) and in Part 1918 (Longshoring) from December 1, 1999, until March 1, 2000. The compliance date of the standard for employers in General Industry, Shipyards and Construction remains December 1, 1999.

Until operators are trained and evaluated pursuant to the new standard, employers in the Marine Terminal and Longshoring industries must remain in compliance with the pre-existing powered industrial truck operator training requirements of ' 1917.27 (1998) for marine terminals (public sector only); and at ' 1918.98 (1998) for longshoring.

The new standard is made applicable to marine terminals by cross reference from ' 1917.1(a)(2)(xiv) and to longshoring by ' 1918.1(b)(10). These two paragraphs will be followed by a notice of the stay.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

Not applicable – APA exempt action

Statement of Final Agency Action

On November 15, 1999, the Safety and Health Codes Board adopted an identical version of federal OSHA's stay of compliance dates for the final rules for Powered Industrial Trucks Operator Training, which was published in 64 FR 46846 on August 27, 1999. The stay of compliance dates is for the Marine Terminals Standard, Public Sector Only, ' 1917.1, and for Scope and Application, Longshoring, ' 1918.1 . The date by which powered industrial truck operators must be trained was stayed from December 1, 1999 until March 1, 2000.

The effective date for this stay of compliance dates is January 20, 1999.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

The National Maritime Safety Association, Inc. (NMSA) petitioned for review of the standard in the Court of Appeals as it applied to the marine terminal and longshoring industries. NMSA has asked OSHA to consider that certain unique circumstances in those industries involving the use of day labor and hiring halls suggest the need for flexibility in interpreting some provisions of the new standard.

OSHA, NMSA and some of its management and labor members are engaged in settlement negotiations to proceed. To permit time for the negotiations to proceed, OSHA and NMSA have agreed to delay the court briefing schedule, and OSHA has agreed to stay the compliance

dates of the new Powered Industrial Truck Operator Training Standard for the marine terminals and longshoring industries from December 1, 1999 to March 1, 2000.

On May 17, 1999, the Safety and Health Codes Board adopted federal OSHA=s final rule and correction for Powered Industrial Truck Operator Training, Parts 1910, 1915, 1917, 1918 and 1926, with an effective date of August 15, 1999.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

Not applicable –APA exempt regulation

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Not applicable – APA exempt regulation

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

Not applicable – APA exempt regulation

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Not applicable – APA exempt regulation

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the differences that would be the effect of the changes.

Not applicable – APA exempt regulation